



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

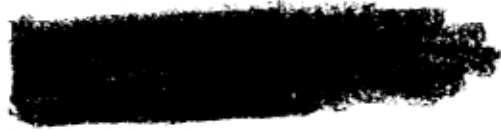
2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE

Docket No: 1355-97

13 October 1999



Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by designee of the Specialty Advisor for Psychiatry, dated 10 September 1998, and the Director, Naval Council of Personnel Boards dated 12 August 1999, and the response of your counsel thereto. A copy of each advisory opinion is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion provided by the Director, Naval Council of Personnel Boards. The Board was not persuaded that you were unfit by reason of physical disability at the time of your discharge in 1970. It noted that the designees of the Specialty Advisor for Psychiatry based their opinion almost entirely on representations you made more than twenty years after you were discharged from the Marine Corps. Your service and medical records, however, do not indicate that you were suffering from the hallmark symptoms of post traumatic stress disorder prior to your discharge, that you sustained any significant head injuries during your enlistment, or that you suffered from an organic brain syndrome at that time. In addition, the Board noted that you volunteered to return to Vietnam, and that your subsequent change of heart and decision to evade that duty were based on personal issues related to your marriage, and not because you were suffering from the effects of post traumatic stress disorder at that time.

In view of the foregoing, the Board concluded that there is no basis for correcting your record to show that you were retired by reason of physical disability, and your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



DEPARTMENT OF THE NAVY  
NAVAL COUNCIL OF PERSONNEL BOARDS  
BUILDING 36 WASHINGTON NAVY YARD  
901 M STREET SE  
WASHINGTON DC 20374-5023

IN REPLY REFER TO  
5420  
Ser:99-049  
12 Aug 99

From: Director, Naval Council of Personnel Boards  
To: Chairman, Board for Correction of Naval Records

Subj: COMMENTS AND RECOMMENDATION IN THE CASE OF FORMER [REDACTED]  
[REDACTED]

Ref: (a) BCNR ltr JRE DN: 1355-97 of 21 Sep 98  
(b) SECNAVINST 1850.4D  
(c) DoDDIR 1332.18 of 9 Sep 68

1. This responds to reference(a) for comments and recommendation regarding Petitioner's request for correction of his record to show that he was retired by reason of physical disability because of the effects of Post Traumatic Stress Disorder (PTSD). **We have determined that Petitioner's records do not support a medical disability.**

2. The Petitioner's case history and medical records, contained in reference (a), were thoroughly reviewed in accordance with reference (b) and are returned. The following comments and recommendation are provided.

3. There was growing recognition during the Vietnam conflict that service members developed behavioral problems when exposed to combat then rapidly brought back to CONUS and placed in more routine, regulation-restricted, duty scenarios. This appears to be what happened to the Petitioner. His condition at the time of his discharge was, in contemporary terminology, a prolonged Situation Adjustment Disorder. Rather than administratively discharge the Petitioner, the more proper course of action at that time would have been retention on active duty with remedial treatment. His apparent adequate functioning for two decades following his administrative discharge evidences the situational character of Petitioner's impairment in 1970.

4. According to enclosure (2), paragraph 3.a.b of reference (c), "situational maladjustment due to acute or special stress do not render an individual unfit because of physical disability."

5. Analysis of the available record is, however, complicated by the relative paucity of information pertaining to Petitioner's

Subj: COMMENTS AND RECOMMENDATION IN THE CASE OF FORMER PFC  
~~XX~~

clinical state and functioning during his developmental/pre-service period and the time between his discharge and entry into the Department of Veterans Affairs' disability system. Consequently, the recorded manifestations in Petitioner's records appear insufficient to warrant, even by today's criteria, the retrospective assignment of the diagnosis of PTSD.

6. In summary, reference (a) does not present sufficient evidence to show that Petitioner was UNFIT FOR DUTY due to PTSD at the time of his release from active duty in 1970 and therefore I recommend his petition be denied.

  
R. S. MELTON

NAVAL MEDICAL CENTER  
DEPARTMENT OF PSYCHIATRY  
PORTSMOUTH, VA 23708-2197

6520  
0506-5-6055  
10 Sep 98

From: Case Reviewers  
To: Chairman, Board for Correction of Naval Records,  
Department of the Navy, Washington, DC 20370-5100  
Subj: APPLICATION FOR CORRECTION OF NAVAL RECORDS IN THE CASE OF  
FORMER ~~XX~~

Ref: (a) Your ltr dtd 8 Oct 97, #1355-97

Encl: (1) BCNR File  
(2) Service Record  
(3) Medical Record  
(4) VA records/Medical Records

1. Pursuant to reference (a) a review of enclosures (1) through (4) was conducted to form opinions about subject petitioner's claim that he was disabled by post traumatic stress disorder in 1970, and should have been retired by reason of physical disability because of that condition.

2. Facts of the case:

a. Subject saw combat in Vietnam, where he was wounded three times and saw many of his friends die. Subject was awarded two purple heart medals.

b. In Jun 69 Subject returned from Vietnam and was assigned to a guard company. While on duty Subject recalled reexperiencing patrols in Vietnam; he had his weapon "locked and loaded" all the time, "everything was black and white, around every corner was an ambush."

c. After six months Subject received orders to return to Vietnam. He alleged that he absented himself without authorization (UA) to avoid his previous experiences of "war of blood and guts."

d. On 3 Feb 70 Subject was evaluated by a psychiatrist. Subject manifested signs of depression, frustration over assignments, and anxiety over his experiences since returning from Vietnam. He was diagnosed with immature personality, situational adjustment reaction and "some drug abuse."

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FORMER [REDACTED]

e. On 20 Feb 70 Subject was administratively separated under honorable conditions, finalized 9 Mar 70.

f. On 3 May 93 Subject received a psychiatric evaluation from the Veterans Administration (VA), Palo Alto, CA. The diagnosis was Posttraumatic Stress Disorder (PTSD), mild. He was rated as ten percent disabled on the basis of PTSD.

g. On 10 Nov 93 Subject received a psychological evaluation from the VA, Burlingame, CA. The diagnosis was PTSD, severe, chronic.

h. On 19 Apr 94 a psychological evaluation (Family Resource Center, San Mateo, CA) diagnosed PTSD - chronic.

i. On 7 Jul 94 a VA rating decision established a 50 percent disability for PTSD.

j. On 10 Feb 95 Subject wrote to Senator George McGovern explaining his experiences at Camp Pendleton, CA after his return from Vietnam. Subject explained how when walking on patrol on his new assignment, he felt as if he were back in Vietnam. He reported that he kept his firearm "locked and loaded." In addition, he explained his mistrustful and paranoid feelings while on patrol. Furthermore, Subject explained how he went UA to avoid returning to Vietnam.

k. On 3 Oct 95 Subject was rated 100 percent disabled by the VA on the basis of PTSD.

l. On 4 Dec 95 psychological evaluation (Family Resource Center) concluded Subject had suffered from PTSD since the time of his initial psychiatric evaluation in Feb 70.

m. On 25 Jan 96 evaluation at PTSD Program, VA San Francisco, CA concluded that the Subject's symptoms in 1970, which were the focus of his first psychiatric evaluation, were classic symptoms of early combat-related PTSD. Subject's deterioration in functioning immediately after returning from Vietnam was seen as supporting the diagnosis of PTSD.

n. On 28 Feb 96 an evaluation concluded that, if Subject were seen today post-combat with the same symptoms Subject manifested in 1970, he would be diagnosed with early PTSD.

o. On 13 Mar 96 an evaluation concluded that Subject had been suffering from PTSD since the time of his discharge in 1970.

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FORMER [REDACTED]

p. On 24 Mar 97 Subject's attorney explained in a hearing at the VA Regional Office, Oakland, California, how his client's aberrant behavior after returning from Vietnam was interpreted as insubordination.

q. On 19 Oct 97 an evaluation diagnosed Subject with PTSD, Alcohol Abuse and Borderline (personality) Traits.

3. The following opinions are submitted:

a. We agree that Subject now has PTSD stemming from his combat experiences in Vietnam. The diagnosis of PTSD requires that a person reexperience trauma in some manner, that he experience a heightened state of arousal, and that he avoid stimuli that recall, resemble or symbolize the trauma.

b. Subject's psychiatric disorder now diagnosed as PTSD began to manifest itself soon after returning from Vietnam in 1969. His illness was difficult to diagnose at that time, since PTSD was not established as a diagnosis by the American Psychiatric Association until the late 1970's. It is clearly documented that upon his return to the United States, Subject experienced flashbacks, hypervigilance, and arousal about his combat experiences in Vietnam. He showed avoidance by going UA to prevent being sent back to Vietnam. The active duty psychiatric evaluation of Feb 70 strongly suggests the diagnosis of PTSD with the opinion, "that the patient is showing, and did show at the time, some poor readjustment to life stateside after the life and death situations he was exposed to in Vietnam."

c. A similar Marine being evaluated today, who presented with a combat history and psychiatric symptoms similar to Subject's in 1970, would be diagnosed with Posttraumatic Stress Disorder - Acute (DSM-IV Diagnostic Code 309.81).

4. Recommendation: We recommend that the record be corrected to show that Subject was disabled from duty by Posttraumatic Stress Disorder in 1970.

5. This case was reviewed by LT J. C. Arguello, MC, USNR, under the supervision of CAPT W. A. McDonald, MC, USN. Quality Review was performed by the undersigned.

*D. P. Kempf*

D. P. KEMPF  
CDR MC USNR



DEPARTMENT OF THE NAVY

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2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE:jdh

Docket No: 1355-97

13 October 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your interest, as Attorney, in the case of [REDACTED]

Enclosed is a copy of a letter to [REDACTED] informing him that his application has been denied. It is requested that you transmit the denial letter to him, a copy of which is enclosed for your records.

It is regretted that a more favorable reply cannot be made.

Sincerely,

W. DEAN PFEIFFER  
Executive Director